

## **COUNTY OF FAIRFAX, VIRGINIA**

### **VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS**

MICHAEL J. MCKEON, VC 2011-MV-002 Appl. under Sect(s). 10-104 of the Zoning Ordinance to permit accessory structure to remain in the front yard of a through lot containing 36,000 sq. ft. or less. Located at 7824 West Boulevard Dr. on approx. 29,630 sq. ft. of land zoned R-2. Mt. Vernon District. Tax Map 102-2 ((17)) 67. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 16, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 29,630 square feet.
4. The applicant has satisfied the nine required standards set forth in the Ordinance for a variance to be granted.
5. The Board adopts the reasons set forth in the very thorough argument of Mr. McBroom which touched on each individually.
6. This is a double front yard.
7. The front yard has been in existence for years.
8. The offending front yard is on a road that was developed later than the property.
9. The County issued a building permit allowing the pool to be constructed.
10. Maybe the County requires these accessory structures to be shown on those plats at this point, but they did not use to; there have been cases like this in the past where building permits had been issued but later only to find that the pump house violated some sort of setback or minor something.
11. The Board does not see that this structure changes the character of the neighborhood or is a detriment to the adjacent property.
12. The structure is only a little larger than the minimum square foot area under which it would not require a building permit.
13. It is noted that the Building Code has been changed to increase minimum square foot area to 200 square feet as of March 1, 2011.
14. The Code's recent change certainly indicates that the State has felt that the smaller buildings won't require quite as much overview.
15. The Board adopts the new hardship provision and it is noted that the new statute is more lenient and that standard is incorporated in the motion.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:

- A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

- 1. This variance is approved for the size and location of an accessory structure, "Frame Pool House", as shown on the plat prepared by Dominion Surveyors, Inc., dated September 10, 2010, sealed and signed by Robert B. Adams, December 23, 2010, as submitted with this application and is not transferable to other land.
- 2. All applicable building permits and final inspections shall be obtained for the 155.04 square foot accessory structure, "Frame Pool House", within 180 days of approval of this special permit.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Mr. Beard seconded the motion, which carried by a vote of 6-0. Mr. Byers was absent from the meeting.